

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

January 21, 2003

RESPONSIBLE STAFF:

David B. Humpton, City Manager

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input checked="" type="checkbox"/>	Other: Public Discussion

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:

A Public Discussion on a Proposal for a Second Addendum to an Annexation agreement for the Casey-Goshen Tract (Hidden Creek)

SUPPORTING BACKGROUND:

As Mayor Katz announced during the January 7, 2003 Mayor and City Council meeting, the City of Gaithersburg and the developers of Hidden Creek have negotiated a proposed settlement to the outstanding law suits associated with the Hidden Creek development. The first step towards formalizing the agreement to reduce the density will be an addendum to the annexation agreement.

City Attorney Abrams and staff are still negotiating with the property owners' attorneys relative to the exact language of this new addendum. However the attached document outlines the framework of the proposed new agreement.

During the meeting staff will give a brief presentation on the proposed agreement. Assuming the parties finalize the agreement in a timely manner, it is anticipated that a resolution authorizing the City Manager to execute the proposed agreement will be scheduled for the February 3, 2003 meeting.

DESIRED OUTCOME:

Hear staff's presentation, provide opportunity for public comment, and provide subsequent guidance to staff.

**OUTLINE OF THE PROPOSED AGREEMENT BETWEEN THE CITY OF
GAITHERSBURG AND THE DEVELOPERS OF HIDDEN CREEK**

January 17, 2003

This memorandum summarizes the draft principal terms of a proposed Second Addendum to the 1971 Annexation Agreement between the City and Eugene B. Casey concerning the Casey-Goshen Property ("Second Addendum"). The purpose of the Second Addendum is to set forth the City's agreement with the owners of Hidden Creek Land Bay III to reduce the permitted density on Land Bay III from 727 units to 462 units and to eliminate 451 rental apartment units from the development. Agreements under the Second Addendum will provide for the eventual dismissal of pending litigation between the City and the owners and the release of the City from claims for damages by the owners. The principal terms as currently proposed are as follows:

- ◆ The Second Addendum will require the owners to file amendments to the previously approved Sketch Plan and to pending Schematic Development Plan No. SDP-01-006 (SDP) for Land Bay III to request approval of 462 total units comprised of 16 single-family detached units, 116 2 over 2 condominium units, 330 townhouse units, an approximately 6,000 square foot clubhouse and pool facility, recreation areas, open spaces and related amenities and infrastructure.
- ◆ The City will review and act on the amended Sketch Plan and SDP and associated road code and other requests consistent with the revised development plan in accordance with a schedule to be agreed upon by the City and the owners, and subject to customary reviews, legal procedures and requirements. The City will also act to approve final site plans, record plats and other development approvals and permits that are consistent with the revised development plan.
- ◆ The City will require the owners to implement a previously negotiated package of road improvements including improvements to Goshen Road, Odend'hal Avenue and MidCounty Highway, and will also require the owners to contribute \$75,000 to be used by the City toward traffic calming measures on Girard Street and to construct a sidewalk connection along the property's Goshen Road frontage from Odend'hal Avenue extended south to the property boundary where the sidewalk connection will tie in to the existing sidewalk.
- ◆ The City will grant the owners necessary easements across property previously dedicated to the City under the original Annexation Agreement to allow for the construction of the sewer facilities and stormwater management facilities shown on the revised development plan.
- ◆ The City will agree to recommend to Montgomery County that the package of road improvements to be built by the owners will qualify for credit against the County-wide development impact tax, and the City will agree not to impose any further impact tax or other special assessments or charges on the development. The owners will be subject to normal permitting fees and charges imposed by the City.

- ◆ The owners will also agree to extend the existing Standstill and Tolling Agreement with the City dated January 6, 2003.

The City and owners will continue to negotiate the terms of the Second Addendum consistent with direction to be given by the Mayor and Council. It is anticipated that the Second Addendum will be brought before the Mayor and Council on February 3, 2003 for final action.

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